UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Pat Wood, III, Chairman;
Nora Mead Brownell, Joseph T. Kelliher,
and Suedeen G. Kelly.

Midwest Independent Transmission System Operator, Inc.	Docket No. ER04-691-021
Public Utilities With Grandfathered Agreements in the Midwest ISO Region	Docket No. EL04-104-020
Midwest Independent Transmission System Operator, Inc.	Docket No. ER03-1312-006
Midwest Independent Transmission System Operator, Inc.	Docket No. ER02-2595-008
Midwest Independent Transmission System Operator, Inc.	Docket No. ER04-375-018

ORDER ON MOTION

(Issued February 17, 2005)

1. In an order dated August 6, 2004, the Commission approved the Midwest Independent Transmission System Operator, Inc.'s (Midwest ISO) proposed Transmission and Energy Markets Tariff (TEMT), to become effective March 1, 2005, subject to modification.[1] When implemented, the TEMT will allow the Midwest ISO to

[1] *Midwest Independent Transmission System Operator, Inc.*, 108 FERC ¶ 61,163 at P 3, *order on reh'g*, 109 FERC ¶ 61,157 (2004), *reh'g pending*. The TEMT contemplates that all services provided pursuant to its terms and conditions will be provided by a Transmission Provider. In turn, the TEMT defines "Transmission Provider" as the Midwest ISO or any successor organization. *See* Module A, section 1.320, Original Sheet No. 133. For clarity, we will refer to the Midwest ISO wherever the TEMT refers to the Transmission Provider.

initiate Day 2 operations in its 15-state region. The Midwest ISO's Day 2 operations will include, among other things, day-ahead and real-time energy markets and a Financial Transmission Rights (FTR) market for transmission capacity. These markets incorporate the major features used successfully in three eastern ISOs – PJM Interconnection, L.L.C. (PJM), New York Independent System Operator, Inc. and ISO New England.

2. On January 28, 2005, the Midwest ISO filed a motion to change the effective dates of certain tariff sheets (Motion) to be consistent with financially binding market operations commencing on April 1, 2005. This order will extend the effective dates. But the tariff sheets are for service under the TEMT, and service cannot commence until the Commission first approves the Midwest ISO's Readiness Certification. This order benefits customers because it will help to ensure that Day 2 energy and FTR markets start successfully and with all customers participating fully in all transactions.

I. Motion

3. The transmittal letter accompanying the Motion states that the Metric Interpretive Guidance Review Task Force recommended at the Midwest ISO Advisory Committee's January meeting that the Midwest ISO delay the launch of the energy markets for 30 days. Stakeholders were concerned that several system readiness metrics were tested before the full functionality for the tariff was in place, *e.g.*, there was no provision for treating carved-out grandfathered agreements.[2] The Midwest ISO then held several meetings and telephone conferences with stakeholders.

4. As a result of these discussions, the Midwest ISO agreed to a 30-day delay of the market start to allow for testing, training and refining of market participants' internal systems. The Midwest ISO states that final market trials will run from January 29 through February 4. System cutover[3] will occur from February 5 to February 20. Starting immediately after cutover all market systems will be operational for mandatory trials until financially binding activities begin with the opening of the market for bids and offers on March 25, 2005 for energy markets service commencing on April 1, 2005.

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[2] Carved-out grandfathered agreements refer to grandfathered agreements that are allowed scheduling rights similar to their current practice, requiring a physical reservation of transmission capacity in the day-ahead energy market and until the scheduling deadline prior to real-time dispatch. *See Midwest Independent Transmission System Operator, Inc.*, 108 FERC ¶ 61,236 (2004).

[3] System cutover is the process of shifting system operations from decentralized control-area operations to centralized security-constrained dispatch.

5. The Midwest ISO believes that continuous market trials starting on March 1, 2005 will provide benefits such as high-volume participation with bid and offer submittals that approximate real operating conditions, opportunities for additional efficiency improvements before transactions are financially binding, higher and more thorough individual utility participation and an increased correlation between paper trial results and expected market results.

6. The Midwest ISO requests a change in the effective date of certain tariff sheets in the TEMT to conform with the revised start date. These changes include the following: (1) revisions necessary to clarify that the initial Reliability Assessment Commitment will commence on March 25, 2005 instead of February 22, 2005; (2) revisions necessary to clarify that other real-time market activities related to the day-ahead and real-time energy markets will be effective April 1, 2005 rather than March 1, 2005; (3) revisions to Station Power Schedule 20 to be effective on April 1, 2005; (4) revisions to Schedules 16 and 17 to be effective on April 1, 2005; and (5) any and all other administrative changes necessary to conform the tariff sheets to be consistent with a market start-up date of April 1, 2005. The Motion leaves unchanged all previously ordered aspects of the TEMT, including the two-month period for cost-based bidding and the effective dates for FTR procedures.

7. Notice of the Midwest ISO's filing was published in the *Federal Register,* 70 Fed. Reg. 6,643 (2005), with interventions, comments and protests due on or before February 8, 2005. Alcoa Power Generating Inc. (Alcoa) filed an answer. The Detroit Edison Company (Detroit Edison) filed a protest. Ameren Services (Ameren) filed a letter.

II. Discussion

A. Protests and Comments

8. Alcoa argues that the energy markets start-up date should be postponed to at least 60 days after the Commission rules on the outstanding rehearing requests in this proceeding. Alcoa states that it seems likely that neither the Midwest ISO nor market participants will be ready to begin financially binding market operations by April 1, 2005.

9. Alcoa states that electricity is often the largest variable cost in manufacturing primary aluminum, and that Alcoa has invested in generation assets to serve its plants. Its Warrick units receive load balancing and other control area services from Southern Indiana Gas and Electric Company (SIGECO), a Midwest ISO transmission owner, pursuant to pre-Open Access Transmission Tariff (OATT) grandfathered agreement (GFA) No. 343.

10. Alcoa argues that "decisions such as the waiver of the requirement that essential steps such as the FTR allocation be completed before start up has increased the level of uncertainty and prevented market participants from adequately preparing" for market start-up.[4] It states that there are difficulties in conforming the allocation of FTRs associated with service under GFA No. 343 to specific operating conditions, and this could have substantial implications for the share of FTR market administrative costs assessed on its service. Alcoa notes that SIGECO was not permitted to nominate fewer FTRs than the maximum number registered in connection with GFA No. 343; consequently, transactions under this GFA will be potentially subject to greater costs under Schedule 16 while SIGECO is deprived of FTRs to hedge congestion associated with other transactions. Alcoa states that it has not been able to determine the financial impact of Midwest ISO market implementation for its operations; administrative charges for the energy and FTR markets, if passed through to Alcoa, would have a detrimental impact on Alcoa's local smelting operations.

11. Finally, Alcoa notes that the Commission has directed the Midwest ISO to make clear how it intends to correct prices under the Reversion Plan, and whether it intends to use price correction authority when the Reversion Plan is in place.[5] Alcoa argues that it has other manufacturing plants, and that it has to decide what plants to operate based, in large measure, on knowing its electricity costs in advance. It states that it cannot collect additional costs of production from customers after the fact; as such, true-ups and recalculations of electric supply costs are antithetical to its decisions regarding aluminum manufacturing operations.

12. Detroit Edison contends that Midwest ISO's failure to pursue a seams agreement with the Ontario Independent Electricity System Operator (IESO) will significantly impact loads within the Michigan Electric Coordinated System (MECS) control area that are directly affected by transmission constraints at IESO flowgates. According to Detroit Edison, until the Midwest ISO implements a seams arrangement with IESO that provides for comparable treatment of all energy transactions affecting congestion at IESO flowgates, including transactions destined for loads in Ontario, transactions sinking within MECS will suffer degradation of reliability. Detroit Edison explains that when IESO converts all non-firm transactions sinking within the IESO to firm transactions at the Ontario border, all transactions are shielded from curtailment until all other non-firm transactions affecting the constraint, *i.e.*, non-firm transactions sinking in MECS, are curtailed. Detroit Edison asserts that this discriminatory treatment is exacerbated by the

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[4] Alcoa Answer at 5.

[5] Alcoa Answer at 7 (citing *Midwest Independent Transmission System Operator, Inc.*, 110 FERC ¶ 61,049 at P 41 (2005)).

fact that a transmission line-loading relief (TLR) event affecting Michigan necessarily restricts additional imports into the state and that the Day 2 market will limit transactions available for curtailment and TLR to transactions across RTO borders, such as Michigan.

13. Detroit Edison also expresses concern that loads within the Midwest ISO are unfairly burdened with higher generation costs when the Midwest ISO calls for redispatch from generators within MECS to avoid a TLR otherwise affecting IESO loads. Detroit Edison believes these concerns take on added weight in light of the PJM – Midwest ISO agreement to redispatch generation within their footprints to the extent Native and Network Load values on the IESO constrained flowgate are exceeded and in light of the poor condition of the MECS – IESO intertie. Detroit Edison requests that the Commission set a date certain, no later than June 1, 2005 by which the Midwest ISO must implement an effective seams agreement with IESO, require reports on a regular basis detailing status of negotiations, and a detailed monthly report identifying all TLRs issued on IESO-controlled flowgates pending the execution of an agreement.

14. Ameren states that the short delay proposed by the Midwest ISO is in the best interest of all stakeholders since the additional 30 days of market trials will afford stakeholders much needed time to test the integrated systems and to train employees. Ameren further explains that the Midwest ISO and all of its stakeholders remain fully committed to initiating energy markets on April 1, 2005.

B. Discussion

15. Recognizing that service under the TEMT cannot begin until we approve the forthcoming Readiness Certification, we will extend the effective date of certain tariff sheets in the TEMT to conform these sheets to an April 1, 2005 market launch date. The Motion was filed after extensive discussion with stakeholders, was filed with the support of the Markets Committee of the Midwest ISO Board of Directors and has been further endorsed in supporting comments submitted by Ameren, a market participant.

16. We acknowledge Alcoa's concerns with the FTR allocation process and the potential pass-through of energy market-related costs to Alcoa through GFA No. 343, but we will not take them up in this order. A recent order addressed Alcoa's concerns regarding the allocation of FTRs for Alcoa under GFA No. 343,[6] and has provided Alcoa greater certainty regarding the number of FTRs allocated for GFA No. 343. In the absence of a showing that the number of FTRs allocated to SIGECO will reduce the

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[6] *Southern Indiana Gas and Electric Company v. Midwest Independent Transmission System Operator, Inc.*, 110 FERC ¶ 61,109 (2005).

number of FTRs available to hedge against congestion costs, the Commission found that such concerns were speculative;[7] Alcoa's argument that its costs will increase as a result of an alleged decrease in congestion hedging potential is an extension of SIGECO's earlier argument addressed by the Commission and is likewise speculative. Lastly, Alcoa's arguments regarding the effect of the Reversion Plan and the Midwest ISO's price correction authority on Alcoa's manufacturing operations challenge the Commission's earlier approval of those mechanisms; as such, they are a collateral attack on prior Commission orders.

17. We will thus deny Alcoa's request to delay energy market start-up until 60 days after the Commission has acted upon the outstanding requests for rehearing in this proceeding. We also anticipate that the month-long period of financially non-binding parallel operations that the Midwest ISO plans for the month of March 2005 will provide market participants, including Alcoa, with further information about how the energy markets will affect them on a day-to-day basis.

18. Detroit Edison's request for a seams agreement between the Midwest ISO and IESO no later than June 1, 2005 is an issue we will address in other orders where we will have the benefit of a fuller record. We encourage the Midwest ISO to continue discussions with IESO to address the issues raised by Detroit Edison.

<u>The Commission orders:</u>

The effective dates of certain tariff sheets in the TEMT are hereby extended to accommodate an April 1, 2005 market launch date.

By the Commission.

(S E A L)

Linda Mitry,
Deputy Secretary.

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[7] *Id.* at P 19.